



Maganjo & another v Studio 62 Limited (Miscellaneous Civil Application E670 of 2024) [2026] KEHC 725 (KLR) (Civ) (30 January 2026) (Ruling)

Neutral citation: [2026] KEHC 725 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
MISCELLANEOUS CIVIL APPLICATION E670 OF 2024**

**JN MULWA, J
JANUARY 30, 2026**

BETWEEN

JAMES MURIITHI MAGANJO 1ST APPLICANT

LUCY KIHURA MAGANJO 2ND APPLICANT

AND

STUDIO 62 LIMITED RESPONDENT

RULING

1. This ruling is in respect of the Applicants Motion dated 15/7/2024 in which they seek an order, in terms of prayer 3, to transfer SCCCCMM E6617 of 2023 from the Small Claims Court to the Chief Magistrates Court, stating that by a counterclaim lodged by the Respondent in the sum of Kshs. 1,782,690/- exceeds the monetary jurisdiction of the Small Claims Court – “Exb. – RK-1”
2. In opposing the application the Respondent filed a replying affidavit sworn on 7/10/2024; wherein the deponent Rose Morine Kinyua, a Director of the Respondent raises several issues:-
 1. That there is filed a suit in the Small Claims Court vide No.S6617/2023 Studio 62 Ltd v. James Muriithi Maganjo & Lucy Kihura Maganjo on 1/09/2023; that this instant suit seeks judgment for Kshs. 493,000/= being the balance owed by the Applicant herein to the Respondent from a contract between the parties;
 2. That interlocutory judgment was entered in the said court on 29/01/2024 against the Applicants herein plus costs as the case was undefended and that upon application dated 30/01/2024 the Applicants sought to stay the interlocutory judgment but by a ruling dated 20/02/2024, the application was dismissed with throw away costs of Kshs. 10,000/= not yet paid – exhb. RK- 4”



3. It is further posited that the Small Claims Court lacks jurisdiction to entertain a claim for more than 1 million and in support filed a preliminary objection dated 23/02/2024 – Exhibit. RK5” and upon a ruling of the court on 7/06/2024, the court urged the Applicants herein to either withdraw their counterclaim above the pecuniary jurisdiction of the court, or file another suit at the CM’s court.
3. As a result therefore, the applicants brought this application to stay proceedings and to transfer the suit to the CM’s Court.

For the reasons averred in the response, the court is urged to dismiss the application with costs.

Analysis and Determination

4. I have perused and considered the disputants’ affidavit evidence provided to the court in which the court notes that there are two similar suits pending hearing filed by the Applicants and instant suit sought to be stayed and SCCMM Suit No. E6617 of 2023 between the parties hereof.
5. I have also carefully read the various rulings of the said court attached as exhibits by the Respondent. Further to the above, the Respondents have lodged a Preliminary Objection in respect of the Pecuniary Jurisdiction of the Small Claims Court. It is dated 23/02/2024.
6. It is trite law that once a Preliminary Objection is lodged, it should be heard and determined in the first instance as held in the cases of Mukisa Biscuit Manufacturing Co. Ltd vs. West End Distributors Ltd [1969] EA 696 and Oraro C. Mbaya [2005]eKLR 141; see also Hcc. Misc. Application No. E 1241/23; and Misc. Civil Application No. E 235/2024.
7. The Small Claims Court jurisdiction is stated at Section 12 of the Act No. 5 of 2020. Section 12 therefore gives the court jurisdiction in Civil Claims relating to contracts for sale and supply of goods or services; contract relating to money held and received; liability in tort in respect of loss or damage carried to any property or for delivery or recovery of movable property compensation for personal injuries; and

Section 12(3) The Pecuniary jurisdiction of the court shall be limited to one million shillings,
12(3) a Higher Court may transfer a claim to a Small Claims Court.
8. It is evident, by the perusal of the Replying Affidavit that the Respondent had filed a suit in the Small Claims Court for recovery of Kshs. 493,000/= against the Applicants which is within the pecuniary jurisdiction of the Small Claims Court.

The Applicants thereafter filed a counterclaim of Kshs 1,782,690/=against the Respondent and due to lack of monetary jurisdiction, the court dismissed the claim on 22/02/2024.

Additionally, by a ruling dated 7/06/2024, the court advised that the Applicants to either withdraw their counterclaim or file another suit with jurisdiction in the Chief Magistrate’s Court.
9. It is evident that the Applicants failed to heed to the learned court’s advice and proceeded to file the application before the court, seeking transfer of the suit to a court with monetary jurisdiction beyond that of the small Claims Court capped at Kshs. 1 million.
10. Section 14 of the Small Claims Act prohibits division of claims for purposes of having a claim above Kshs. 1 Million heard in parts for the sole purpose of bringing the sum claimed in each such proceedings within the jurisdiction of the court.



The above, in my view, is what the Applicants are seeking to do whereas they seek to stay proceedings in the case already filed in the Small Claims Court vide No. E6617/2023 between the parties over the same subject matter.

11. Further learned Higher Courts have pronounced that a court cannot allow a transfer of a case filed in a court without jurisdiction to a court with jurisdiction.

In the first instance when the Applicants approached the court under certificate of urgency and motion dated 15/07/2024 (this motion) the court on the sketchy affidavit material before it issued a temporary order for stay of proceedings in SCCMME6617/2023 pending determination of the motion.

Thereafter and having now read the response and upon consideration of the same, the court finds that it would not be for the justice of the case to have the interim stay of proceedings orders extended; they are hereby vacated to allow progress of the suit to proceed to hearing and determination.

12. There is a reason why the drafters of the *Small Claims Court Act* and Rules at Section 13 (3) granted a higher court power to transfer a claim in a higher court to the small claims court and not vice versa in respect of monetary jurisdiction.

The cases of *Biwott & Another v. Amin & Others* [2025] dKLR. *Catherine Wambui Thuo v. Mogaka Nyathae Nyakindi & Another* [2025] eKLR speak to the above.

13. For the foregoing, the Applicants application dated 15/07/2024 lacks merit. The interim stay of proceedings in SCCMME6617/23 are vacated. The application is dismissed with costs to the Respondent.

Orders accordingly.

DELIVERED DATED AND SIGNED AT NAIROBI THIS 30TH DAY OF JANUARY, 2026.

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JANET MULWA.
JUDGE

